

Message Text

PAGE 01 STATE 038742 TOSEC 040051

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ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 CCO-00 /026 R

DRAFTED BY OES;HDBENGELSDORF:VM

APPROVED BY D:RSINGERSOLL

C - MR. SONNENFELDT (DRAFT)

OES - MR. HERTER (SUBS.)

PM - MR. VEST (SUBS.)

ARA/BR - MS. ELTZ (DRAFT)

PM/NPO - MR. OPLINGER (DRAFT)

IO/SCT - MR. CAVANAUGH (DRAFT)

ACDA - MR. VAN DOREN (DRAFT)

EUR/CE - MR. CASAGRANDE (DRAFT)

S/P - MR. KALICKI (DRAFT)

NSC - DR. ELLIOTT (SUBS)

ERDA - MR. SLAWSON (DRAFT)

L/OES - MR. BETTAUER (DRAFT)

PM/NPO - MR. NOSENZO (SUBS)

S/S - MR. SHANKLE

S/S-O - MR. HOGANSON

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FM SECSTATE WASHDC

TO USDEL SECRETARY IMMEDIATE

C O N F I D E N T I A L STATE 038742 TOSEC 040051

EXDIS

E.O. 11652:GDS

TAGS: TECH, ENRG

SUBJECT: FRG-BRAZILIAN-IAEA TRILATERAL SAFEGUARDS AGREE-

MENT: ACTION MEMO (S/S NO. 7603379)

FOR THE SECRETARY FROM HERTER & VEST THRU SONNENFELDT &
INGERSOLL

1. THE PROBLEM: THE BOARD OF GOVERNORS OF THE INTER-
NATIONAL ATOMIC ENERGY AGENCY IS SCHEDULED TO MEET STARTING
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PAGE 02 STATE 038742 TOSEC 040051

ON FEBRUARY 24. ONE PRINCIPAL ITEM FOR CONSIDERATION WILL
BE A TRILATERAL SAFEGUARDS AGREEMENT BETWEEN THE FRG-BRAZIL
AND THE IAEA DESIGNED TO APPLY AGENCY SAFEGUARDS TO THE
BROAD FRG-BRAZILIAN NUCLEAR ACCORD OF 1975.

2. WE HAVE BEEN REQUESTED BY THE GERMANS TO INTERVENE ON THEIR BEHALF TO ASSURE THAT THE BOARD TAKES AFFIRMATIVE ACTION ON THIS MATTER. SPECIFICALLY, VON STADEN APPROACHED ACTING SECRETARY INGERSOLL ON THE MATTER ON FEBRUARY 14. WE NEED TO DECIDE WHAT WE SHOULD SAY IN REPLY TO THE FRG AND HOW WE SHOULD HANDLE THIS ITEM WHEN IT SURFACES AT THE BOARD MEETING. ALSO YOU MAY BE APPROACHED BY THE BRAZILIANS ON THIS MATTER SINCE THEY HAVE SEPARATELY ASKED US FOR OUR SUPPORT OF THE SAFEGUARDS AGREEMENT.

3. BACKGROUND/ANALYSIS: THE FRG APPROACH HAS BEEN PROMPTED BY REPORTED STRONG SOVIET MOVES (CONFIRMED BY OUR MISSION TO THE IAEA IN VIENNA) FAVORING A DEFERMENT OF BOARD CONSIDERATION OF THIS ITEM.

4. THE SOVIETS HAVE EXPRESSED SPECIFIC RESERVATIONS ABOUT VARIOUS ASPECTS OF THE TEXT INCLUDING:

-- SOME DISCREPANCIES FROM THE MINIMUM CONDITIONS SET FORTH IN THE LONDON SUPPLIER GUIDELINES;

-- THE FACT THAT ENRICHMENT TECHNOLOGY IS TO BE FURNISHED BY THE FRG TO BRAZIL, (THE RUSSIANS HAVE QUESTIONED THE APPROPRIATENESS OF INCLUDING THIS SUBJECT WITHIN THE AGREEMENT SINCE THE IAEA HAS NOT AS YET PERFECTED ITS PROCEDURES FOR SAFEGUARDING SUCH FACILITIES);

-- THE FACT THAT THE AGREEMENT INCLUDES A CLAUSE MAKING THE TERMS APPLICABLE TO BERLIN.

5. IT ALSO APPEARS THAT THE SOVIETS ARE IRRITATED AT NOT HAVING BEEN CONSULTED MORE CLOSELY ON THE MATTER. MORE IMPORTANTLY, SINCE THIS IS THE FIRST AGREEMENT OF ITS KIND FOLLOWING THE LONDON SUPPLIER CONSENSUS THEY HAVE ARGUED THAT IT SHOULD BE FLAWLESS IN ALL RESPECTS CONFIDENTIAL

PAGE 03 STATE 038742 TOSEC 040051

AND THAT CONSIDERATION SHOULD BE POSTPONED EVEN IF THE MATTER NEEDS TO BE CONSIDERED AT A SPECIAL BOARD MEETING TWO OR THREE WEEKS HENCE. OUR MISSION IN VIENNA HAS ADVISED THAT THE SOVIETS APPEAR TO BE FAIRLY TOUGH IN THIS INSTANCE.

6. TO COUNTER THIS DEVELOPMENT VON STADEN HAS REQUESTED THE US TO (A) TAKE BILATERAL STEPS VIS-A-VIS A NUMBER OF BOARD MEMBERS IN AN ATTEMPT TO PERSUADE THEM NOT TO AGREE TO A POSSIBLE POSTPONEMENT; AND (B) "PLEAD" IN FAVOR OF APPROVAL AT THE BOARD MEETING. BRAZIL HAS INDEPENDENTLY ASKED FOR OUR SUPPORT AS NOTED SEPTTEL.

7. WE SHOULD NOTE THAT WE OURSELVES, AS WELL AS FRANCE, THE U.K., AND CANADA, HAVE HAD A FEW RESERVATIONS ABOUT THE TEXT OF THE SUBJECT TRILATERAL SAFEGUARDS AGREEMENT ON THE GROUNDS OF SOME DEVIATION FROM THE LONDON GUIDELINES AND LACK OF CARE IN CLOSELY ADHERING TO ALL SPECIFIC FEATURES OF THE RELEVANT IAEA SAFEGUARDS DOCUMENTS. WE BELIEVE THE MOST IMPORTANT OF THESE CAN BE ADEQUATELY DEALT WITH THROUGH FRG CLARIFICATION AT THE BOARD MEETING AND WE WILL SEEK SUCH CLARIFICATION IN RESPONDING TO THE VON STADEN APPROACH.. HOWEVER, THE GERMANS FULLY CONSULTED

US BEFOREHAND ON THE TEXT AND EXPLAINED THAT THE FRG-BRAZILIAN DEAL PRE-DATED THE RECENT SUPPLIER GUIDELINES. AS A CONSEQUENCE THEY CLAIM THEY HAD LIMITED FLEXIBILITY AS TO HOW FAR THEY COULD REOPEN NEGOTIATIONS TO INTRODUCE RETROACTIVELY THE SUBSEQUENT LONDON UNDERSTANDINGS. THE GERMANS ALSO IMPROVED THE TEXT SOMEWHAT, TO TAKE INTO ACCOUNT PROPOSALS (IN THE WAY OF TIGHTENING) MADE BY OURSELVES AND THE IAEA SECRETARIAT.

8. ACCORDINGLY, GIVEN THIS HISTORY, WE DO NOT BELIEVE THE US SHOULD ACTIVELY SUPPORT THE SOVIET PROPOSAL FOR DEFERMENT AND WE BELIEVE THAT THE US SHOULD BE PREPARED TO ACCEPT A CONSENSUS FAVORING POSITIVE BOARD ACTION ON THE AGREEMENT. WE WOULD DO SO, HOWEVER, ON THE UNDERSTANDING THAT, BECAUSE OF SOME DEFICIENCIES, THE TEXT OF THE AGREEMENT IS NOT NECESSARILY A PRECEDENT FOR THE FUTURE. BEYOND THIS THERE IS A SERIOUS QUESTION, HOW-CONFIDENTIAL

PAGE 04 STATE 038742 TOSEC 040051

EVER, IN OUR MINDS AS TO HOW FAR WE SHOULD GO IN INTERVENING ACTIVELY ON BEHALF OF THE GERMANS AS REQUESTED BY VON STADEN.

9. WE COULD, OF COURSE, ACCOMMODATE THE GERMAN REQUEST AND ACTIVELY LOBBY ON BEHALF OF THEIR AGREEMENT WITH THE UNDERSTANDING THAT IT DOES NOT CONSTITUTE A PRECEDENT. THIS WOULD BE APPRECIATED AS A GESTURE OF GOODWILL BY THE GERMANS AND THE BRAZILIANS AND MIGHT EASE THOSE TENSIONS WE MAY ALREADY BE CREATING WITH THE FRG BY RAISING QUESTIONS ABOUT THEIR PROPOSED SALE OF HEAVY WATER PLANT TO PAKISTAN.

10. ON THE OTHER HAND, WE SEE MANY MORE COMPELLING REASONS FAVORING THE ADOPTION OF A MORE NEUTRAL US POSITION ON THE MATTER. THESE INCLUDE THE FOLLOWING:

-- AS NOTED, WE OURSELVES, HAVE HAD SOME RESERVATIONS ABOUT THE TEXT OF THE AGREEMENT AND IT THUS WOULD BE INAPPROPRIATE FOR THE US TO BECOME ONE OF ITS ADVOCATES BEFORE THE BOARD;

-- MORE BASICALLY, THE US IS ON PUBLIC RECORD AS HAVING HAD SOME BASIC RESERVATIONS ABOUT THE FUNDAMENTALS OF THE FRG-BRAZILIAN ACCORD WHICH AS YOU KNOW, INVOLVES THE TRANSFER OF REPROCESSING AND ENRICHMENT TECHNOLOGY. ACCORDINGLY, SINCE THE PROCEEDINGS OF THE IAEA BOARD (WHILE CLOSED) OFTEN BECOME PUBLIC KNOWLEDGE, WE WOULD ANTICIPATE ADVERSE DOMESTIC REACTIONS IF THE US NOW APPEARED TO BE A SPECIAL PLEADER FOR THE ARRANGEMENT.

11. SUGGESTED APPROACH: ACCORDINGLY, ON BALANCE IT IS RECOMMENDED THAT WE BE AUTHORIZED TO INFORM THE FRG THAT FOR ITS PART THE US IS PREPARED TO JOIN A CONSENSUS IN FAVOR OF THE FRG-BRAZILIAN-IAEA AGREEMENT IF SUCH A CONSENSUS EMERGES ON BEHALF OF THE ACCORD. IN TAKING THIS POSITION WE WOULD INDICATE THAT OUR ACCEPTANCE OF THE SAFEGUARDS AGREEMENT DOES NOT NECESSARILY IMPLY USG ENDORSEMENT OF EACH AND EVERY SPECIFIC TRANSACTION COVERED BY IT. IN OUR ROUTINE CONSULTATIONS WITH OTHER MEMBERS OF THE BOARD, INCLUDING THE SOVIETS, WE WOULD BE PREPARED CONFIDENTIAL

PAGE 05 STATE 038742 TOSEC 040051

TO STATE THIS AS OUR POSITION ON A LOW-KEY BASIS AND WE WOULD MAKE IT EMPHATICALLY CLEAR THAT WE REGARD THE BERLIN COVERAGE CLAUSE IN THE AGREEMENT TO BE ACCEPTABLE. HOWEVER, WE ALSO WOULD MAKE IT CLEAR TO THE FRG AND TO OTHER LONDON SUPPLIERS THAT WE HAVE HAD SOME RESERVATIONS OURSELVES ABOUT THE TEXT AND THAT WE THUS DO NOT VIEW IT AS A PRECEDENT. WE THUS WOULD LEAVE IT TO THE GERMANS THEMSELVES TO DECIDE HOW HARD TO PRESS THE MATTER IF IT APPEARED THAT A POSTPONEMENT MIGHT SERVE TO ENGENDER BROADER SUPPORT. ALTHOUGH THIS APPROACH DOES NOT GIVE THE GERMANS AND BRAZILIANS ALL THEY ARE ASKING, WE THINK THEY WILL SEE WHY WE FEEL IT INAPPROPRIATE TO TAKE THE LEAD IN LOBBYING FOR THEIR SAFEGUARDS AGREEMENT.

12. BUREAU VIEWS: OES, PM, S/P, IO, EUR, ARA AND ACDA CONCUR IN THIS CABLE.

13. RECOMMENDATIONS: IT IS RECOMMENDED THAT YOU APPROVE THE SUGGESTED APPROACH DESCRIBED IN PARA. 11 ABOVE, AND THAT YOU AUTHORIZE MR. INGERSOLL AND OTHERS TO ADVISE THE FRG THAT WE ARE PREPARED TO JOIN A CONSENSUS IN SUPPORT OF THE FRG-BRAZILIAN TRILATERAL SAFEGUARDS AGREEMENT IF SUCH A CONSENSUS EMERGES AT THE BOARD. WE WOULD, HOWEVER, DO SO ON THE UNDERSTANDING THE TEXT OF THE AGREEMENT DOES NOT NECESSARILY CONSTITUTE A PRECEDENT. ALSO, WHILE IN SUPPORT OF APPROVAL WE WOULD NOT STRONGLY OPPOSE POSTPONEMENT IF THAT APPEARED TO BE THE CLEAR CONSENSUS.

APPROVE

DISAPPROVE

IT IS FURTHER RECOMMENDED THAT SHOULD THIS BE

RAISED DURING YOUR BRASILIA TALKS, YOU INFORM SILVEIRA
IN GENERAL TERMS OF THE POSITION WE WILL TAKE IN THE IAEA.
SUGGESTED TALKING POINTS ARE GIVEN IN THE SUCCEEDING
PARAGRAPH.

APPROVE

DISAPPROVE

14. TALKING POINTS: (AS ADDITION TO ISSUE 3 "NUCLEAR
COOPERATION" IN COUNTRY PAPER):

CONFIDENTIAL

PAGE 06 STATE 038742 TOSEC 040051

-- IN VIEW OF OUR PUBLIC POSITION ON THE BRAZIL-FRG
ARRANGEMENT, WE DO NOT WISH TO TAKE THE LEAD IN LOBBYING
FOR THE SAFEGUARDS AGREEMENT, BUT WE WILL SUPPORT A CON-
SENSUS FOR ACCEPTANCE, ASSUMING THIS EMERGES IN THE VIENNA
MEETING. OBVIOUSLY ANY STATEMENT WE MAKE ON BEHALF OF
THE ACCORD WILL HAVE TO BE COUCHED IN TERMS OF MAKING IT
CLEAR THAT IN CONCURRING IN THE SAFEGUARDS AGREEMENT, WE
ARE NOT NECESSARILY ENDORSING EVERY TRANSACTION TO WHICH
IT APPLIES. SINCE WE HAVE SOME MINOR RESERVATIONS ABOUT
THE TEXT WE ALSO WOULD MAKE IT CLEAR IN PRIVATE CONSUL-
TATIONS, THAT WE WOULD NOT VIEW THE TEXT TO BE A PRECEDENT
FOR THE FUTURE;

-- WE WILL MAKE THIS POSITION CLEAR IN OUR CONSUL-
TATIONS WITH OTHER BOARD MEMBERS;

-- IN THE UNLIKELY EVENT A CLEAR CONSENSUS WERE
TO EMERGE FOR DEFERMENT, WE WOULD FEEL CONSTRAINED TO
ACCEPT THE MAJORITY VIEW.

15. AS POSTSCRIPT TO ABOVE WE HAVE JUST BEEN ADVISED
THAT BRITISH ARE REPORTEDLY TAKING SIMILAR POSITION TO
RECOMMENDATIONS AS PER PARA. 11 ABOVE. INGERSOLL

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